

### **REMARKS/ARGUMENTS**

Reconsideration and allowance of the present application based on the following remarks are respectfully requested.

The Abstract was objected to for not commencing on a separate sheet. A new copy of the Abstract, on a separate sheet, has been provided.

Claim 42 stands rejected under 35 U.S.C. §112, first paragraph, as not being enabled by the specification. The Examiner attacks the specification for "...fail[ing] to show a direct correlation of antibodies that bind the specific epitope and amelioration of the disease state thereby constituting a therapy."<sup>1</sup> The applicants respectfully traverse this rejection for at least the following reasons.

A Rule 132 Declaration of Dr. Burnie (an inventor of the claimed invention), resubmitted from application 09/214,307 from which the pending application is a divisional, is attached for the Examiner's consideration. In the Declaration and its attachments, Dr. Burnie outlines the therapeutic efficacy obtained in an animal model which treated mice suffering from an *Enterococcus faecium* infection with the claimed antibodies or antibody fragments.<sup>2</sup> In addition, as Dr. Burnie goes on to explain, the skilled artisan would expect that such animal studies would result in a beneficial therapeutic effect in a human.<sup>3</sup>

Accordingly, the Applicants submit that the above claim is in full compliance with §112, and respectfully request the reconsideration and withdrawal of this rejection.

Therefore, all objections and rejections having been addressed, it is submitted that the present application is in a condition for allowance and a Notice to that effect is earnestly solicited.

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<sup>1</sup> Office Action of July 29, 2003, page 4.

<sup>2</sup> Declaration of Dr. Burnie, ¶¶ 3, 4.

<sup>3</sup> Declaration of Dr. Burnie, ¶ 5.

Should any issues remain unresolved, the Examiner is encouraged to contact the undersigned attorney for Applicants at the telephone number indicated below in order to expeditiously resolve any remaining issues.

Respectfully submitted,

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Date: October 24, 2003  
Attachment: §1.132 Declaration by Dr. James P. Burnie